

Message Text

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C O N F I D E N T I A L JAKARTA 15745

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SUBJ: ATTACHMENT OF PERTAMINA ASSETS

REF: A JAKARTA 15522, B JAKARTA 15217,

1. E/CM COUNSELOR MET WITH AMERICAN ADVISER TO GOI MINISTER STATE PLANNING ORGANIZATION (BAPPENAS), J B SUMARLIN, DECEMBER 23 TO REVIEW LATEST DEVELOPMENTS IN SUBJECT ACTION. SINCE LAST REPORT THERE HAS BEEN GROWING CONCERN, ESPECIALLY IN AMERICAN BANKING CIRCLES IN JAARTA, AND WE UNDERSTAND NEW YORK, SAN FRANCISCO AND SINGAPORE, ABOUT IMPACT ATTACHMENT PERTAMINA ASSETS. SPECIFICALLY CONCERN CENTERED AROUND SECTION OF SEOND MORGAN GUARANTY \$425 MILLION BALANCE OF PAYMENTS CREDIT WHICH DEALS WITH SUBJECT OF "DEFAULT."

2. THAT PORTION OF BANKING COMMUNITY IN JAKARTA WHICH IS AWARE OF DEFAULT CLAUSE AND ATTACHMENT PERTAMINA ASSETS IN ORDER SECURE PAYMENTS DUE IS CONCERNED THAT DEFAULT CLAUSE COULD BE IMPLEMENTED BECAUSE OF ATTACHMENT PROCEEDINGS. SEOND LEVEL OF CONCERN ABOUT DEFAULT CLAUSE INVOLVES QUESTION OF CLAUSES' APPLICABILITY TO PURIAH DEBTS OWED UNDER DOMESTIC CONTRACTS, PAYMENTS ON SOME OF WHICH ARE SIX TO TEN MONTHS IN ARREARS.

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3. ADVISER TO SUMARLIN INFORMED E/CM COUNSELOR THAT ON

MONDAY, DECEMBER 22, FEDERAL COURT HEARINGS IN NEW YORK ON NEXT STEP ON ATTACHMENT ACTION RESULTED IN JUDGE DISMISSING METROPOLITAN TANKERS'S CASE. ACCORDING TO OUR INFORMANT, CASE WAS THROWN OUT BECAUSE CHARTER PARTY CALLS FOR ARBITRATION IN CASE OF DISPUTE AND IN THIS MATTER METROPOLITAN TANKERS HAD NOT RPT NOT INSTITUTED ARBITRATION PROCEEDINGS PRIOR COURT ACTION. INFORMANT ALSO REPORTED THAT METROPOLITAN SAID THAT PERTAMINA HAD FAILED TO RESPOND TO ALL COMMUNICATIONS SINCE LAST APRIL REGARDING SETTLEMENT OF PAYMENTS DUE. LAWYERS FOR METROPOLITAN, PERTAMINA AND GOI HAVE MET IN NEW YORK SUBSEQUENT TO MONDAY COURT ACTION AND WORKED OUT SATISFACTORY TEMPORARY SOLUTION UNDER WHICH PERTAMINA WILL PAY \$3.3 MILLION TO METROLOPITAN OF \$7.3 MILLION OWED.

4. SUMARLIN ADVISER SHOWED E/CM COUNSELOR FILE OF KNOWN OUTSTANDING CHARTER AND HIRE PURCHASE AGREEMENTS BETWEEN PERTAMINA AND NUMBER OF FOERIGN SHIPOWNERS, WHICH WAS LITERALLY SEVEN INCHES THICK. ADVISER SAID HE WAS IN PROCESS OF ATTEMPTING ANALYZE TERMS EACH OF THESE AGREEMENTS AND ESTABLISH TOTAL DOLLAR AMOUNTS INVOLVED.

5. A NUMBER OF THE CONTRACTS ARE BETWEEN THE RAPPAPORT ORGANIZATION IN GENEVA AND PERTAMINA, AND SOME OF THESE INVOLVE A LIBERIAN COMPANY WITH THE NAME OF "RASU." RASU HAS ACTED AS AN INTERMEDIARY BETWEEN THE OWNERS OF VESSELS AND PERTAMINA. THE NAME IS MADE UP OF "RA" FROM RAPPAPORT AND "SU" FROM SUTOWO. ONE CHARTER PARTY HIRE PURCHASE AGREEMENT BETWEEN PERTAMINA AND RASU HAS BEEN COMPARED TO CHARTER PARTY HIRE PURCHASE AGREEMENT FOR SAME SIZE, TYPE AND AGE VESSEL MADE DIRECTLY WITH NORWEGIAN SHIPOWNER, AND IN EVERY FINANCIAL CLAUSE THERE IS A SIGNIFICANT EXCALATION OF COSTS AND PRICE IN RASU AGREEMENT RESULTING IN AN ULTIMATE PRICE DIFFERENCE FOR THE PRUCAHSE OF RASU VESSEL OF SOME \$30 MILLION. IT IS EMBASSY'S JUDGEMENT THAT ANY PUBLIC REVELATION WOULD CONFIRM PERSISTENT RUMORS THAT IBNU SUTOWO WAS UTILIZING HIS OWN POISTION FOR HIS PERSONAL FINANCIAL BENEFIT, A FACTOR, WE BELIEVE, IN RAPPAPORT DECISION TO NEGOTIATE RATHER THAN INSTITUTE COURT PROCEEDINGS WHICH MIGHT HAVE RESULTED IN SUCH REVELATION.

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6. EMBASSY INFORMANT SAID THAT IT IS CURRENT GOI POLICY TO DIVIDE HIRE-PURCHASE CHARTER ARRANGEMENTS FOR INTERNAL AND EXTERNAL TANKER OPERATIONS OF PERTMINA AND BETWEEN CURRENT AND PAST OBLIGATIONS AND FUTURE OBLIGATIONS. THAT IS, GOI IS PREPARED TO MEET ALL OBLIGATIONS FOR CURRENT AND PAST INTERNATIONAL TANKER ACTIVITIES OF PERTAMINA BUT INTENDS TO GET PERTAMINA OUT OF INTERNATIONAL TANKER

ACTIVITIES COMPLETELY. THEREFORE, THEY WILL SEE TO IT THAT ALL CURRENT VALID OBLIGATIONS ARE PAID AND ATTEMPT TO NEGOTIATE CANCELLATION OF ARRANGEMENTS FOR INTER-NATIONAL TRADE TANKERS NOW UNDER CHARTER HIRE PURCHASE OR UNDER CONSTRUCTION. GOI AND PERTAMINA ARE PREPARED TO PAY ANY PENALTIES INVOLVED TO SUCH ACTION. THE ONLY EXCEPTION TO THIS POLICY IS IN CASE OF THOSE VESSELS ON HIRE PURCHASE CHARTER BEING USED IN INTER-ISLAND OPERATIONS. IT IS BASIC POLICY THAT PERTAMINA AND GOI WILL OPERATE INTERNAL TANKERS BUT THAT ALL INTERNATIONAL SHIPPING SHOULD BE ON LIMITED SPOT CHARTERS.

7. SUMARLIN'S ADVISER HAS BEEN INSTRUCTED TO DRAFT PUBLIC STATEMENT TO BE MADE BY SENIOR GOI OFFICIAL, WHOSE CREDIBILITY IS UNTARNISHED, OUTLINING ALL THAT HAS BEEN DONE WITH REGARD TO TANKERS AND WHAT GOI-PERTAMINA FUTURE POLICIES WILL BE. US BANKING COMMUNITY IN JAKARTA IS ANXIOUS THAT SUCH AUTHORITATIVE STATEMENT BE MADE TO REASSURE THEIR PRINCIPALS OF INDONESIA'S RESPONSIBLE AND DISCIPLINED APPROACH TO RESOLVING PERTAMINA FINANCIAL PROBLEM, WHICH HAS GROWN TO PROPORTIONS NOT CONCEIVED OF SIX MONTHS AGO. RIVES

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